

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 -----x
4 UNITED STATES OF AMERICA,

5 -vs-

19 CR 375 (CS)

SENTENCING

6 LASHAUMBA RANDOLPH,

7 Defendants.
8 -----x

9 United States Courthouse
10 White Plains, New York

11 Friday, October 15, 2021
12 11:45 a.m.

13 B e f o r e:

14 HONORABLE CATHY SEIBEL,
15 District Judge

16 A P P E A R A N C E S:

17 AUDREY STRAUSS

18 United States Attorney for the
19 Southern District of New York

20 DAVID FELTON,

Assistant United States Attorney

21 SAPONE & PETRILLO

22 BY: EDWARD SAPONE, ESQ.

23 Attorney for Defendant
24
25

1 THE DEPUTY CLERK: All rise, the Honorable Cathy
2 Seibel presiding, United States v. Randolph.

3 THE COURT: Good morning, Mr. Felton, Mr. Sapone, and
4 Mr. Randolph. Everyone can have a seat.

5 ALL: Good morning.

6 THE COURT: Let me start by putting on the record what
7 I've received in connection with the sentencing.

8 I have the pre-sentence report, which is dated April
9 26th, 2021; I have Mr. Sapone's sentencing memorandum, which is
10 undated; I have the Government's sentencing memo from October
11 8th; I have a letter just received today dated October 14th from
12 a lawyer named Sarah Jones who represents Mr. Randolph in his
13 Florida case; and I just received a proposed restitution order
14 and consent preliminary order of forfeiture.

15 Is that everything I should have?

16 MR. FELTON: Yes, your Honor.

17 MR. SAPONE: Yes, thank you, Your Honor.

18 THE COURT: All right.

19 Mr. Randolph...

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: Have you read the pre-sentence report and
22 the addendum?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: Have you reviewed those with Mr. Sapone?

25 THE DEFENDANT: Yes, ma'am, I have.

1 THE COURT: Are you satisfied with Mr. Sapone and his
2 representation of you?

3 THE DEFENDANT: Yes, ma'am, I am.

4 THE COURT: Mr. Sapone, you've reviewed the
5 pre-sentence report, the addendum, and gone over them with your
6 client?

7 MR. SAPONE: Yes, I did, your Honor.

8 THE COURT: Do you have objections to the factual
9 material in the pre-sentence report?

10 MR. SAPONE: No, your Honor.

11 THE COURT: Does the Government have objections to the
12 factual material in the pre-sentence report?

13 MR. FELTON: No, your Honor.

14 THE COURT: All right, then the findings of fact in
15 the pre-sentence report are my findings of fact.

16 I do, however, think that the pre-sentence report
17 could be updated to reflect two things, both the information in
18 Pre-Trial Services's June 29th, 2021, report and the information
19 in Ms. Jones's October 14th, 2021, letter. There are a number
20 of places where I think if Pre-Trial had updated -- excuse me,
21 Probation had updated this report since April, they would have
22 mentioned that. All right.

23 The pre-sentence report calculates a different
24 guidelines range than the plea agreement did, and it explains
25 how that came to be, as did the Government in its memo.

1 You didn't address that, Mr. Sapone. I assume that
2 means that you agree that the number is what Probation says it
3 is?

4 MR. SAPONE: So, your Honor, in terms of a guidelines
5 calculation, yes, because as they say, sometimes something is
6 what it is. I would ask your Honor to consider, though, as a
7 starting point as we begin our analyses of 3553(a) and the
8 guidelines today is that, you know, the initial crimes that give
9 rise to that criminal history were more than twenty years ago in
10 Florida -- yes.

11 THE COURT: I'm very open to whatever you're going to
12 say in mitigation. I just wanted to know if you objected as a
13 guidelines matter. I know you're going to encourage me to go
14 below the guidelines and tell me all the reasons why I should,
15 but I --

16 MR. SAPONE: Yes, your Honor.

17 THE COURT: All right.

18 Does the Government wish to be heard, Mr. Felton?

19 MR. FELTON: Yes, your Honor.

20 So as set forth in the sentencing memo, the Government
21 respectfully submits that a guideline sentence or the stipulated
22 guidelines sentence here of 51 to 63 months of imprisonment
23 would be appropriate. I'm not going to spend too much time on
24 the offense conduct. The Court has sentenced eight of Mr.
25 Randolph's Co-Defendants, including just last week a similarly

1 situated Co-Defendant, Colin Bennett, and this is the ninth and
2 second-to-last defendant the Court will sentence in this case.

3 Nobody is claiming or has ever claimed that this is a
4 capital offense or anything like that, but it still put money in
5 the Defendant's pocket, it deprived car owners of their cars, it
6 defrauded car buyers, it deceived law enforcement and the South
7 Dakota DMV, and collectively it made a mess of car records
8 relied upon by the public and law enforcement.

9 As the Court has said eight times already and may well
10 say a ninth time, this four-million-dollar national stolen car
11 ring harmed anyone paying for or seeking to buy car insurance,
12 raising insurance premiums for all. Like Mr. Bennett, Randolph
13 had a key role, but not the most lucrative role in this
14 sophisticated fraud scheme. He created fraudulent identity
15 documents, primarily fake titles, and also fraudulent VIN
16 stickers. A guidelines sentence is necessary to reflect the
17 seriousness of the offense and to provide just punishment.

18 In terms of relative culpability, the Government
19 believes that Mr. Randolph's role creating these phony identity
20 documents put him roughly in the middle of the scheme above
21 Dixon and Walton, beneath Williams and Ismaeli. In comparison
22 to Co-Defendant Robert Pinsky, for example, on the one hand,
23 Randolph's responsible for a greater loss amount because the
24 cars that he was involved with through his creation of fake
25 identity documents were ultimately more valuable and there were

1 more of them than the cars Pinsky was responsible for. On the
2 other hand, the fraud proceeds that Pinsky gained by virtue of
3 his selling stolen luxury cars were higher than Randolph because
4 you get more money, apparently, selling stolen cars, luxury
5 cars, than you do by providing fake car titles. Ultimately
6 here, it's Randolph's history of car crimes and car arrests and
7 especially the concerning conduct while on pre-trial release
8 that highlight the needs for specific deterrence, the needs to
9 protect the public, and the importance of promoting respect for
10 the law that negatively set him apart from his Co-Defendants,
11 aside from Defendant Burnett, that have been sentenced to date.

12 On the plus side and, certainly, in Randolph's favor,
13 there is a substantial gap since his three prior car convictions
14 which were from roughly twenty years ago in Florida.

15 As the Government learned from the pre-sentence
16 report, you know, he did serve a substantial 50-month sentence
17 in connection with those offenses, so I don't mean to minimize
18 them, but they weren't close in time, they are from a long time
19 ago. That is worth putting on the record. On the other hand,
20 you know, he served several years and then he had a whole bunch
21 of additional arrests, car-related arrests, that didn't result
22 in prosecutions in 2005, but even taking that as the starting
23 point, there is a real gap in arrests or any kind of criminal
24 activity between 2005 and 2017 when the charged conspiracy here
25 began.

1 Now, I mean, there is a potential argument, and the
2 Government agrees with it, but that this twelve-year period of
3 law-abiding behavior shows that perhaps this crime here is a
4 slip, some kind of minor blip, and, you know, that he only made
5 \$9,500 in demonstrated gain would be another argument in the
6 Defendant's favor. What undermines this hypothetical argument,
7 however, in the Government's view is, one, the other federal
8 case where he's slated to go to trial early next year in the
9 Western District of Pennsylvania for a very serious car
10 insurance fraud scheme and arson case where he faces substantial
11 penalties. That charged conduct occurred right around the same
12 time as the scheme here, but that he has another serious federal
13 case pending at the same time is not something you see every
14 day. Then there is the conduct while on pre-trial release.

15 First I'm going to address the COVID loans as
16 referenced in the pre-sentence report.

17 While on pre-trial release, while subject to not one,
18 but two federal indictments, he applied for three and received
19 two COVID-19 pandemic-related small business loans that he was
20 flatly ineligible for. He was subject to two federal
21 indictments, and he indicated that he was not subject to any
22 indictments when he applied for all three of those loans. He
23 applied for \$80,000 in loans, so roughly 20,000 in a PPP loan
24 that he did not receive, then he applied for it and received;
25 roughly \$20,000 in a PPP loan that he did receive; and then he

1 applied for and received \$39,500 in what's known as an economic
2 injury disaster loan, which is another small business
3 administration COVID-19-related loan. It's not just that he was
4 ineligible for them, he made demonstrably false statements that
5 he was not subject to indictment when he applied for and, in
6 fact, received over \$60,000 in fraudulent loans.

7 We don't have venue here. That's why we didn't
8 supersede. Otherwise we would have.

9 THE COURT: Is somebody going to? Charge this?

10 MR. FELTON: We've referred the matter to law
11 enforcement in Georgia. I can't comment; I don't know whether
12 they will or will not. We have made a criminal referral.

13 It's egregious, awful conduct. He attempted to and
14 did steal from a limited pool of taxpayer-funded money and for
15 struggling and dying small businesses during a pandemic. He
16 illegally sought to and did profit from a national emergency,
17 from a global emergency, simple as that.

18 Then we have the Polk County, Florida, car incident.
19 There, while on pre-trial supervision in two federal cases in
20 the state of Georgia, where he's not supposed to leave, he finds
21 himself in Polk County, Florida, in a rental car in his name,
22 three cell phones, \$5,600 cash on him, he --

23 THE COURT: It's the key fobs that are most
24 incriminating.

25 MR. FELTON: Yes, your Honor, and I will, I will

1 certainly get to that.

2 He -- as detailed in the violation memo which has been
3 incorporated into the pre-sentence report and the underlying law
4 enforcement affidavit, there he went to a car dealership in
5 Florida with another individual and sort of went through what
6 appears to be a ruse attempting to buy an \$88,000 car.

7 While the other individual was in the car, Randolph is
8 outside the car, talking to the car dealer, opening the hood,
9 asking a million questions, expressing real interest in buying
10 an \$88,000 car in a state that he's not supposed to be in.
11 Ultimately he says, "oh, it's too expensive," and gives back a
12 key fob -- he actually touches the key fob based on the report.
13 Gives back a key fob to the car dealer, says, "thanks," you
14 know, "too expensive, we'll," you know, "we'll be on our way,"
15 but the car dealer realizes that it's not the actual key fob,
16 it's another one, for a different car, and rightfully they start
17 to get concerned that, you know, they're going to take the key
18 fob they have and try and steal the car later. Randolph is
19 ultimately pulled over with the other person who was in the car
20 with him and several key fobs were found, including the key fob
21 for the \$88,000 car that he was pretending that he had an
22 interest in buying.

23 Now, you know, we have this late-breaking news today
24 that, you know, the other person who, you know, had given the
25 cops a false name and had a fake ID is saying it was all him,

1 Mr. Randolph had no knowledge of anything, and, you know,
2 apparently this will be dismissed in Polk County, Florida, you
3 know, in ten days. And ultimately this admission by his friend
4 and assumption of responsibility by him, I mean, doesn't really
5 change the Government's view. The Government's view that this
6 is relevant in the Court's, you know, assessing and imposing a
7 sentence is not dependent upon the actual results of the state
8 case in Florida.

9 You know, at a minimum, what is he doing in Florida,
10 you know, pretending to buy an \$88,000-dollar car in a state
11 he's not supposed to be in, asking super-detailed questions,
12 opening the hood, touching and passing the key fob back and
13 forth between his -- you know, the Co-Defendant in the Florida
14 case and the person at the car dealership, given the history,
15 the charged conduct in our case, the conduct on pre-trial
16 release with respect to the COVID loans, the twelve car-related
17 arrests, his pending car-related fraud case in the Western
18 District of Pennsylvania, given all of this conduct, the
19 implausibility of what he possibly could be doing there, and all
20 the surrounding circumstances detailed in the violation memo via
21 accompanying police affidavit and what I put on the record here,
22 the Government ultimately does not credit that Mr. Randolph, you
23 know, had nothing to do with this and had no knowledge of what
24 was going on, and, at a minimum, he's violating the Court's
25 order and the Court in the Western District of Pennsylvania's

1 order that he shouldn't be leaving the state without permission,
2 he's associating with someone clearly up to no good in a
3 category of case very similar to the charged offense, you know,
4 months before he's scheduled to be sentenced, so even under the
5 most charitable view of the facts, this is pretty bad conduct.

6 And it's all the more baffling and puzzling and
7 senseless given the Defendant's incredibly impressive and
8 supportive family members and the Defendant's own demonstrated
9 ability to run incredibly successful businesses that can earn
10 him substantial income. We see from the cooking business that
11 he was generating over \$30,000 a month in multiple months. At
12 the same time, he's engaging in this car scheme, this
13 \$88,000-dollar car scheme, on pre-trial release.

14 The only explanation that I can think of is that he
15 can't help himself, he just can't stop committing frauds. No
16 matter how nice he is and no matter how good he is to his
17 family, and, you know, there's a lot of evidence of that in the
18 Defendant's submission and the pre-sentence report, and we're
19 not disputing that, but he just has a really hard time staying
20 out of trouble, and for all these reasons, we respectfully
21 submit that a sentence within the stipulated guidelines range of
22 51 to 63 months is needed to reflect the seriousness of the
23 offense conduct, but primarily the conduct while on pre-trial
24 release, to deter the Defendant from future offenses, protect
25 the public from the crimes, and promote respect for the law.

1 THE COURT: Thank you, Mr. Felton.

2 Mr. Sapone.

3 MR. SAPONE: Yes. Good afternoon, your Honor. Nice
4 to see you, nice to see Mr. Felton and Mr. Clark.

5 Your Honor, when a man sits at a table there on a day
6 like this, he has a choice, and one choice that he can pick is
7 to fight about facts, to thumb his nose at the Government, and
8 the obvious circumstantial evidence on some of these things and
9 to leave through that door kicking and screaming and arguing,
10 that's certainly one choice that one has, wind up at a Fatico
11 hearing and fight about facts. Today, of course, is a
12 sentencing proceeding, and another choice that a man who sits at
13 that table has is to not fight about facts, but to show
14 appropriate remorse and acceptance of responsibility, which is
15 the avenue that we will travel by. We respect this Court too
16 much to do anything else.

17 This is not a case where that man went to trial. This
18 is not a case where twelve strangers filled into the box, plus
19 four alternates. He didn't waste anyone's time, he came to the
20 table and he admitted it, and that's what today is going to
21 sound like. He is very sorry for what he has done, and there is
22 no excuse for any of this.

23 Is it an excuse that in this one-year-long conspiracy
24 that Mr. Randolph appears from the evidence to have joined it in
25 August of 2018, a few moments before the end of November of

1 2018; is it an excuse that he joined it only three or four
2 months from the end; no, it is not an excuse. Is it an excuse
3 that in this elaborate scheme that what he got was \$9,500,
4 making the whole thing ridiculous, making the whole thing not
5 worth it, disgracing his family. We have his Brittany, his
6 wife, and his son Denarius, 26 years of age, here in court.
7 They got in a car, they drove up from the South to support their
8 husband, their father. Is it an excuse that he did all of this
9 and he put himself in harm's way and he's been sitting in jail
10 over \$9,500? No, it is not. It is quite sad. Did he belong in
11 Florida when these events occurred in the car dealership? No,
12 he belonged at home with his wonderful family. What he was
13 doing in Florida is not important. The fact is he was there.

14 I had tried, your Honor, for many months to get proof
15 of what the law firm in Florida, the Jones firm, had told me for
16 many, many, many months, which is the case is going to get
17 dismissed against Lashaumba Randolph and it wasn't until
18 Shawnvy, his brother, who is a lawyer down South, was finally
19 able to prevail upon them and get a letter to the same effect.
20 Does the circumstantial evidence of that incident look good for
21 him? Of course, it does not and that's why we're not going to
22 fight about facts, but I will say that that is not a case where
23 he was convicted, and I will take people at their word and it
24 looks like it's getting dismissed, so whatever that means to
25 your Honor, you're the one who will decide the weight of that.

1 Your Honor, this is about, in my humble opinion, two
2 words, which is grace and mercy, and we're never going to find
3 those words in 18 U.S.C. 3553(a), but I believe that grace and
4 mercy are built into the American criminal justice system, it's
5 in there throughout, throughout those seven paragraphs of the
6 statute, and what I mean by that is, it is always the most
7 broken in society, the people who need the most help, the people
8 who maybe needed a program or they needed a psychologist to
9 assist them and they never got it, that wind up walking from the
10 back door out and sitting at this table. It's not the
11 successful ones, it's not the ones who didn't need a helping
12 hand, or else none of us would have a job, so these are the
13 folks that we are here to assist. It is easy to have a heavy
14 hand in these cases and prison is not always the solution, so
15 what I'm asking for, without excuse because there is none, is
16 for grace and mercy.

17 Now, let's talk about the whole person for a moment,
18 and I know you read my papers, but it's worth leaning into just
19 for a few minutes.

20 I believe that there is a continuum that leads people
21 to sit in those seats. In other words, oftentimes we look at a
22 childhood and how someone is raised and his or her experiences,
23 and it is not hard to see how they wind up in a courtroom like
24 this. Lashaumba Randolph grew up under horrific circumstances
25 with a father, most respectfully, who was addicted to drugs, who

1 could never keep his finances straight, who would come home drug
2 induced and drunk and beat the oldest child, and we know it from
3 the letters and I certainly know it from the dozens of hours
4 I've spent speaking to Shawnvy, Mr. Randolph's younger brother,
5 who somehow made it in life and became a lawyer, but still looks
6 up to his older brother Lashaumba. Lashaumba was the one beaten
7 with cords, Lashaumba was the one beaten with belts, Lashaumba
8 was the one who as a teenager would go and mow lawns in affluent
9 Miami, in South Beach, for rich people so he could bring money
10 home to feed his siblings and help his mother pay the bills
11 because Dad was not around, Dad was in jail, sometimes from
12 domestic violence, not only against Mom, but against Lashaumba.
13 Lashaumba was the one who would go and work at concession stands
14 at Dolphins Stadium to bring money home.

15 Now, why is this relevant. It's relevant because I
16 believe, your Honor, there is a continuum that sometimes when
17 people have a childhood like that, things stick with them, and
18 so what stuck with Lashaumba that I believe brings him here?
19 Never by way of excuse, but always by way of explanation, how
20 could an otherwise wonderful man who is good to his wife and
21 good to his son and good to his eight-year-old daughter wind up
22 doing these things? Is he inherently evil? Or is this some
23 issue that maybe could be fixed so that at 46 and he goes off
24 into his fifties, maybe these things don't get repeated.

25 According to his brother, who is a very smart lawyer,

1 he believes that older brother Lashaumba has a money insecurity,
2 which is he had money because he always worked so hard, but
3 always felt that it wasn't enough. Why would Lashaumba Randolph
4 feel, he's not a stupid man, that the money he earns
5 legitimately from his hard work and paying taxes and supporting
6 his family is not enough? I believe he could benefit from
7 psychiatric counseling, that is, although there was never enough
8 growing up, although there was serious poverty in the home,
9 although that man who as a boy cried himself to sleep every
10 night how are we going to pay the rent, Dad's not around and
11 when he is, he's beating us, it stuck with him, and it's very
12 difficult sometimes to get rid of it.

13 I've been doing this for twenty-one years representing
14 people and I've seen patterns, and it always starts with the
15 childhood and it's very sad, and had he had one program to maybe
16 help him, then maybe we wouldn't be here, maybe this could all
17 be avoided, but maybe there's always light at the end of the
18 tunnel because there is grace and mercy, and so, your Honor, we
19 ask how could the sentence which I am seeking, which I
20 appreciate is a substantial variance from where I'm asking you
21 to start your analysis, given the age that brings the criminal
22 history into play, I was about to say earlier, I'd ask you to
23 begin the analysis at 51 to 63 as the Government and I are
24 asking you to do, and then from there, I'm asking for a serious
25 variance.

1 How could the law be respected with such a result,
2 especially with other Co-Defendants in the case, which always
3 makes it difficult for me, and what I say is this. In some
4 cases the law is respected, in other words, there's a promotion
5 of respect by a sentence when it is a heavy-handed sentence, and
6 some of those cases include violent cases or drug cases or gun
7 cases, cases like those, but, your Honor, in the financial
8 crimes cases where, thankfully, in this case, a lot of the
9 restitution has already been paid and we're down at the \$26,098
10 mark, which is great for victims, I believe that the law could
11 be respected, in other words, your Honor's sentence could
12 promote respect, when there is grace and mercy. When a family
13 who is trying to get on and stay together and keep these
14 businesses afloat, and there is no doubt that that man knows how
15 to work hard, that maybe a lighter sentence can promote respect
16 for the law because we don't always have to be so heavy handed,
17 and that's what I'm asking for and that's what I'm suggesting.

18 In terms of the need to avoid disparity in sentences,
19 your Honor has the ability to do whatever you want today. The
20 sentences in this district and all over the country in cases
21 like these for similarly-situated people, because we sentence
22 the whole person, are all over the board, and I note that
23 Bennett, while on supervision, had engaged in a horrific car
24 crash where I think it dropped twenty feet from one level to
25 another, almost killing people, and so, yes, Lashaumba shouldn't

1 have been in Florida and the PPP stuff and the open case in
2 Pennsylvania, there's no doubt about that, but when you look at
3 the danger to society in these things -- and, by the way, he's
4 going to have to pay the loans back. It's not like he stole
5 money. It's not a grand larceny. He got loans that he has to
6 pay back, although there's nothing correct about that, and
7 that's why, your Honor, I think it's different from Bernett.

8 In terms of just punishment, sometimes the sentence
9 with someone who's healthy, with someone who has nothing else to
10 talk about in terms of how will he spend his time in prison is
11 very straightforward, but this one is different because this man
12 weighs 365 pounds, and every time he puts his neck and his
13 shoulders and his back on the thin BOP mattress, and he's been
14 living this way for four months at the Westchester County Jail,
15 he is in writhing pain and there is nothing they can do for him.
16 He is too heavy to be supported by those beds, and with his
17 physical condition, every night is like hell.

18 Now, is that anyone's fault? No, it's Mr. Randolph's
19 fault because he is the one who put himself in that bed, but
20 every night that he lies down is like that for him, and as much
21 time he spends in the BOP, that's just the way it's going to be.

22 THE COURT: Well, maybe BOP has better mattresses than
23 Westchester County. He's not in BOP yet.

24 MR. SAPONE: No, you're right about that, but I've
25 also gotten complaints my whole career about the BOP mattresses

1 also, so maybe they're a little better, but not much.

2 THE COURT: Sometimes they give you two if you have a
3 back problem.

4 MR. SAPONE: I hope so.

5 With respect, your Honor, to general deterrence, I
6 think the studies show, respectfully, that it is not the length
7 of the sentence that deters the people out there, it's the
8 certainty of the sentence. In other words, anyone in
9 Lashaumba's position looking at this case, whatever dozens of
10 months he gets as a sentence, is not going to say, well, oh, if
11 it was that dozen months, I wouldn't do it, but because it's
12 this dozen months, I will commit the crime. It's the fact that
13 it is a felony conviction, it's the fact that he's going to
14 prison, and it's that certainty that deters people if they're
15 deterred at all. Those are the studies that I am aware of, that
16 the number is not what deters people. But he's gotta be
17 specifically deterred, no doubt, because my ears were wide open
18 earlier and I know the case, no doubt about it, but that's why
19 the sentence that I'm asking for will specifically deter him,
20 because he'll be in prison for years and years and years and
21 then he'll come out, and I'm asking for the maximum three years
22 supervised release during which he will be supervised, and if he
23 does anything wrong, then he goes right back into the BOP if
24 your Honor chooses that, so my point is specifically there will
25 be years and years and years of specific deterrence if your

1 Honor should fashion a sentence below these guidelines.

2 Your Honor, we have these three businesses, the many,
3 many-acre farm that provides sustainable food for the community,
4 we have I call it the roving restaurant, the restaurant on
5 wheels, that goes out and, again, feeds the community with
6 wonderful organic food, and the tow truck company. His wife has
7 explained to me that she is doing what she can and thinks she
8 can continue to hold on for some time, although when Mr.
9 Randolph was home, they were doing so much better financially
10 because, really, what she does is she cooks. She's not the
11 manager, she's not the one who brings in business. She is an
12 excellent chef, and has had a very difficult time raising an
13 eight-year-old and also assisting Mr. Randolph's 26-year-old son
14 who lives at home, and she said that she could hold on for some
15 time, but not for a guidelines sentence amount of time. They
16 will lose all three businesses for sure. And so what I'm asking
17 for is, although I understand that this is not pre-2005 and
18 these are not, quote, unquote, extraordinary family
19 circumstances I might have been asking you for sixteen years
20 ago, I'm asking you to consider the whole person and all the
21 circumstances and impose grace and mercy upon Lashaumba
22 Randolph.

23 Thank you, Your Honor.

24 THE COURT: Thank you, Mr. Sapone.

25 Mr. Randolph, if there's anything you'd like to say

1 before I sentence you, I will hear you now.

2 THE DEFENDANT: Yes, ma'am. Thank you this morning
3 for giving me an opportunity to address the Court and address
4 you.

5 The first thing I would like to say is I want to
6 apologize to your Honor, to the Government, to this community
7 here in New York, and, most importantly, I want to apologize to
8 my family, my wife, and my son. I want to apologize to you for
9 not being the man that I needed to be, not providing the proper
10 example for you in doing the things that I needed to do in my
11 life.

12 I just want to apologize to you and let you know that
13 from this day forth, I'm going to work to be the best man that I
14 can be, for my family, for my community, for the kids that I
15 mentor from time to time, Mr. Sapone in the guidelines sentence
16 that we asking for, the hundred hours of community service, but
17 I plan on making that not just as a requirement for the
18 sentence, but a requirement for life. That way I can give back
19 to other people to hopefully help them make smarter and better
20 choices in their lives.

21 And I know that we met under these unfortunate
22 circumstances, your Honor, but I just want to let you know that
23 I plan on coming back and sending correspondence to you to let
24 you know that even though this is an unfortunate situation that
25 I find myself in, I'm going to try to find the good in it, to

1 make my situation the best it needs to be, and to hopefully give
2 back to other people so when it's finally said and done, when
3 you decide to step down off the bench and you can look back over
4 the people and the lives that you've touched, you can say that I
5 was definitely one of the individuals that you were able to
6 touch and point in the right direction because I want to be able
7 to be an example for my family and for my community, and it
8 starts with me today taking responsibility for my actions and
9 doing what I need to do, because it's, it's just hard hearing
10 your life put before people...like that and you just realize the
11 things that you did and positions that you put yourself in.

12 And I just wanna turn and apologize to my wife and my
13 son, I'm sorry, I apologize to y'all, I'm sorry, I didn't mean
14 to do this to you all, I know I let you down and I apologize.
15 I'm sorry, I'm sorry.

16 I'm sorry, I'm sorry, I'm sorry, I'm sorry.

17 (Brief pause)

18 THE DEFENDANT: This is not the man that she married,
19 and I gotta do better, I wanna do better, I need to do better.
20 I'm gonna do better. I promise you. I promise you that. I
21 promise you this ain't the last time you gonna hear from me,
22 your Honor, and I mean that in a positive way, not a negative
23 way. I mean that in a positive way. Because I'm going to take
24 this opportunity and turn this negative into a positive, and I'm
25 going to try to touch people lives and hopefully get my life

1 together in the process and use my example as my testimony to
2 try to help other people get theirs together, 'cause I
3 apologize, I didn't want my -- I embarrassed my wife and I
4 embarrassed my son and I embarrassed my kids, and I apologize to
5 them. I'm sorry. I apologize to the community, I apologize to
6 the Government, I apologize to you, and I'm sorry.

7 I wanted to say a couple of words today, but...I'm
8 sorry, I'm sorry. I apologize, I'm sorry. I'm sorry. Oh, God.
9 Oh, man, I feel, I feel so ashamed right now y'all watching and
10 looking at me crying. I'm sorry. Oh, I'm sorry. I apologize.
11 I apologize.

12 THE COURT: Okay, thank you, Mr. Randolph.

13 I have to start with the sentencing guidelines -- I'm
14 sorry, was there more you wanted to say?

15 THE DEFENDANT: No, I'm fine, your Honor, I'm sorry.
16 Continue. I'm sorry.

17 THE COURT: No need to apologize.

18 I have to start with the sentencing guidelines. They
19 are only advisory, but they are a starting point, and they are
20 not in dispute.

21 The base offense level is 7. Because the loss amount
22 exceeded \$550,000 -- one sec.

23 (Brief pause)

24 THE COURT: Yeah, the pre-sentence report says 500,
25 but that's a mistake.

1 -- \$550,000, but less than 1.5 million, the base
2 offense level is increased by 14 levels, and two more levels are
3 added because there were at least ten victims. Two additional
4 levels are added because the offense involved sophisticated
5 means, specifically the creation of fraudulent paperwork like
6 fake VIN stickers and car titles, and that the Defendant
7 intentionally engaged in that conduct. Two more levels are
8 added because it involved an organized scheme to steal or
9 receive stolen vehicles or vehicle parts. That takes us up to
10 27. Three levels are subtracted for the Defendant's timely
11 acceptance of responsibility, and he's at offense level 24.

12 He has several prior convictions.

13 He has a 2000 conviction for grand theft which
14 involved a stolen vehicle with an altered VIN and a phony
15 registration. The Defendant's probationary sentence was revoked
16 and he was sentenced to 50 months for failing to pay the cost of
17 supervision, getting rearrested, resisting arrest, and failing
18 to pay restitution.

19 He had a 2001 conviction for very similar conduct,
20 again, a high-end car, which was stolen, an altered VIN number,
21 and a second vehicle. The probationary term there was revoked.
22 These all count separately because they're intervening arrests,
23 same with the third conviction, which, again, same thing...or
24 same general thing, a stolen vehicle. This time the Defendant
25 took off, lost control of the vehicle, crashed it, fled on foot,

1 and gave a false name, so each of those three convictions was
2 originally a probationary -- the first two were originally a
3 probationary sentence, but they all became 50-month sentences
4 and they're each 3 points, so it's a criminal history points of
5 9 and criminal history category 4.

6 Then he has a pending case in the Western District of
7 Pennsylvania involving an insurance fraud scheme and an arson.
8 Whether he did that or not I don't know. I would imagine if he
9 is convicted, whatever sentence he receives there will be on top
10 of whatever sentence I give him. I'm not going to take that
11 into account and it is not taken into account in criminal
12 history.

13 Also not taken into account in criminal history are
14 eleven other arrests between 1994 and 2005, seven of which were
15 dismissed and four of which were consolidated with other cases.
16 Every one of them is...similar, stolen vehicles, altered
17 paperwork, but none of them resulted in convictions.

18 Until his arrest in 2018 for this case and the
19 Pennsylvania case, the Defendant had been out of trouble since
20 2005, hadn't been arrested since 2005, and yet here he is in a
21 world of trouble for -- with two pending federal cases and
22 probably a third one on the way.

23 The sentencing guidelines range is 77 to 96 months, so
24 about six-and-a-half to eight years. Whether I should sentence
25 within, above, or below that range turns on the 3553(a) factors.

1 The first is the history and characteristics of the Defendant.

2 And I have to say that Mr. Randolph is one of the most
3 confounding defendants I've come across. He had what sounds
4 like a brutal childhood, with a father who was abusing drugs and
5 abusing his mother and abusing him, and it appears that there
6 were stretches of time where his father was in jail, stretches
7 of time where the children were sent to live with their
8 grandmother. His mother somehow miraculously got an education
9 and a good job and his father miraculously got clean, but that
10 wasn't until after he was -- the latter wasn't until after the
11 Defendant was grown, so it has to have been terrible to be
12 raised in those circumstances, and it makes perfect sense that
13 as the oldest child, Mr. Randolph would feel responsible and
14 might, as his brother posits, develop some unhealthy ideas about
15 the need for money, but we know that for a long period of time,
16 Defendant was not in trouble, and then we know he returned to it
17 in a big way. By the way, I skipped over the nature and
18 circumstances of the offense.

19 This Defendant didn't make very much money, but he
20 caused a lot of damage. For the reasons described by Mr.
21 Felton, which I won't repeat, these crimes have cascading
22 effects and caused the loss of greater than a half a million
23 dollars, and this Defendant pocketed less than 10,000. It's not
24 the crime of the century, it's only money, nobody died, and the
25 Defendant -- it was a particularly bad choice for him to get

1 involved because although he didn't make a lot of money, he was
2 a very key part of the ring. I mean, the others couldn't have
3 succeeded without people like Mr. Randolph to give them phony
4 paperwork, so while I don't -- I think I've said for everybody,
5 it's not the crime of the century, particularly confounding in
6 Mr. Randolph's case as to why he would even get involved for so
7 little money, but I think we can tell there was a period in this
8 time between the 90's and 2005 where he had, let's say, an
9 unhealthy interest in cars, and he was able to control that
10 between 2005 and 2018 when he went back in business, which is a
11 shame. It's particularly a shame because the Defendant has,
12 among other things, certain attributes that a lot of people I
13 sentence do not have.

14 His siblings are successful and supportive. He has a
15 wife who's obviously very talented and who's standing by him.
16 He's got a grown son who's standing by him. And he has acumen,
17 he has successfully run businesses, and he seems to have people
18 who love him. You know, the letters I've gotten...you know,
19 some of them, heh, I have to say, show a little denial about the
20 Defendant's past, but they describe somebody who's kindhearted
21 and warm and beloved and who really bounced back from a terrible
22 childhood, and, you know, if you told me that somebody who grew
23 up the way Mr. Randolph grew up, you know, beat his wife and,
24 you know, had horrible anger issues and, you know, was
25 impulsive, I wouldn't be at all surprised, but it sounds like

1 he's none of those things. He seems to be a loving husband,
2 there's no case of violence, and the crimes he commits are ones
3 that require planning, so in many ways, he's surmounted the bad
4 experience of his childhood, but in other ways, he clearly has
5 not, and I think he could benefit from assistance from a mental
6 health professional.

7 You know, the elephant in the room, of course, is the
8 conduct while on pre-trial release, and this I cannot
9 understand.

10 You know, it may be that the authorities in Polk
11 County are petrified by the Co-Defendant's exculpatory statement
12 and plan to drop the charges against Mr. Randolph. That
13 certainly wouldn't happen here, heh, regardless of what the
14 Co-Defendant says. The facts that are not disputed make a very
15 makeable case against Mr. Randolph and certainly sufficient for
16 me to find by a preponderance of the evidence that he was up to
17 no good on supervised release. He had no business being in
18 Florida in the first place. It seems pretty obvious what he was
19 doing there; he was doing more of the same. He and his buddy
20 were going into car dealerships and one of them was distracting
21 the salesman while the other one was swapping out the key fob,
22 and that's why multiple key fobs for additional vehicles were
23 found in the car when they were stopped. Obviously Mr. Randolph
24 was in no position to really buy an \$88,000 car, and given his
25 track record, it was quite obvious what was going on.

1 The part I cannot figure out is why would you take
2 that chance. This occurred after the Defendant had pleaded
3 guilty, so he knows he's going to face a sentencing judge.
4 It's, it's...it just doesn't make sense. And it concerns me
5 that Mr. Randolph has gotten to this age in his life and is
6 incapable of making the right decision for himself. As the
7 Government points out, at the very least he had no business
8 being in Florida at all, but what he was doing there is even
9 worse.

10 And even worse than that is the loan fraud. I mean, I
11 understand that...the controls on these loans weren't what they
12 should have been and, therefore, people in the community and
13 people on the internet were telling everybody how easy it was to
14 get free money, but it is disgraceful conduct, and the Defendant
15 did it repeatedly. To take advantage of a national and
16 worldwide emergency, to take advantage of a program that's
17 designed to help businesses stay afloat just to line your
18 pockets when you're not eligible and you know you're not
19 eligible because you have not one, but two pending indictments,
20 it's...it's very bad conduct, and, again, it's inexplicable, if
21 you're thinking rationally, why you would you take a chance like
22 that when you know you're going to face a sentencing judge just
23 makes no sense.

24 You know, Mr. Randolph runs a business, runs several
25 businesses. He knows how to think things through. He knows how

1 to weigh pros and cons. He knows how to decide whether an
2 investment is a good idea or a hire is a good idea or a purchase
3 is a good idea, and yet when it comes to his own conduct, he
4 cannot figure out what's a good idea or what isn't. I'm sure he
5 figured he was going away and he wanted to leave his family in
6 good financial shape, but he did the opposite and it was
7 completely predictable that it would do the opposite, so I
8 understand why today Mr. Randolph feels so regretful and so
9 ashamed; he's got stuff to be regretful and ashamed about.

10 I have to consider the seriousness of the offense.
11 I've already discussed that.

12 I have to consider promoting respect for the law.
13 That is a huge issue with Mr. Randolph who clearly doesn't stop
14 to think that what he's doing is against the law, he doesn't
15 think about that he's under court supervision, he seems to think
16 the rules don't apply to him.

17 I have to consider just punishment. I have to
18 consider deterrence. I'm not sure Mr. Randolph can be deterred.
19 If people on bail for two federal offenses wasn't enough to
20 convince Mr. Randolph to be law-abiding, knowing he was going to
21 face a sentence judge, I'm not sure what would, but there is the
22 issue of general deterrence.

23 Protecting the public from further crimes is an issue.
24 You know, you commit several new crimes or two new crimes --
25 well, several because there were a number of false applications.

1 If you commit several new crimes while you're awaiting sentence,
2 that creates a real concern about the need to protect the public
3 from further crimes.

4 I've considered the guidelines of 77 to 96 months.
5 I've considered all of the 3553(a) factors, even the ones I
6 haven't discussed.

7 The mitigation here is the Defendant's upbringing and
8 the offense and his role in it, but they're -- on the flip side
9 is the aggravating conduct while on release. I'm going to go
10 below the guidelines. I'm not going to go nearly as low as Mr.
11 Sapone asked me to do. The lowest number that I can live with
12 is 60 months imprisonment. That's going to be followed by three
13 years supervised release under the following conditions:

14 First, the mandatory conditions, you will not commit
15 another federal, state, or local crime; you will not unlawfully
16 possess a controlled substance; you'll refrain from any unlawful
17 use of a controlled substance; you'll submit to one drug test
18 within fifteen days of release from imprisonment and at least
19 two more thereafter; you'll cooperate in the collection of DNA
20 as directed by the probation officer; you will make restitution
21 in accordance with 18 U.S.C. §§ 3663, 3663(a), and 3664; you'll
22 comply with the standard conditions of supervision 1 through 12,
23 along with the following special conditions:

24 You'll provide the probation officer with access to
25 any requested financial information. You will not incur new

1 credit charges or open additional lines of credit without the
2 approval of the probation officer unless you are in compliance
3 with the installment payment schedule, which I'll describe
4 momentarily. You'll submit your person and any property,
5 residence, vehicle, papers, effects, computers, other electronic
6 communication or data storage device, cloud storage, or media,
7 to search by any probation officer, with the assistance of law
8 enforcement if needed. The search is to be conducted on
9 reasonable suspicion concerning a violation of a condition of
10 supervision or unlawful conduct by the Defendant. Failure to
11 submit to search will be grounds for revocation of release. Any
12 search must be conducted at a reasonable time and in a
13 reasonable manner. You shall warn any other occupants that the
14 premises may be subject to search pursuant to this condition.

15 If the probation officer determines based on your
16 criminal record, personal history, or characteristics that you
17 pose a risk to another person or organization, the probation
18 officer, with prior approval of the Court, may require you to
19 notify the person or organization about the risk, and you must
20 comply with that instruction. The probation officer may contact
21 the person to confirm the notification or the organization.

22 You will participate in a mental health treatment
23 program approved by the Probation Office and will take any
24 prescribed medications unless otherwise instructed by the mental
25 health treatment provider. You'll contribute to the cost of

1 services rendered based on ability to pay or availability of
2 third-party payment. I authorize the release of the mental
3 health treatment and reports, including the pre-sentence report
4 and the sentencing memoranda, to the mental health treatment
5 provider.

6 I'm imposing the mandatory \$100 special assessment,
7 which is due immediately. I am ordering restitution as agreed
8 upon in the amount of \$26,098.47. The restitution payments
9 should be made as described on page 45 of the Pre-Trial Services
10 report.

11 I've considered the factors set forth in 18 U.S.C.
12 § 3663(f) (2) and in the interest of justice, order that
13 restitution be payable in installments pursuant to 18 U.S.C.
14 §§ 3572(d) and (2). The installments will be monthly in the
15 amount of \$200 or ten percent of gross income, whichever is
16 greater, payable on the first of each month starting 30 days
17 from release from confinement.

18 The restitution obligation is joint and several with
19 Co-Defendants. I'm imposing the \$9,500 forfeiture, which has
20 already been agreed upon. While the Defendant is in prison, he
21 will make installment payments toward his restitution obligation
22 through the -- and may do so through the Bureau of Prisons
23 financial inmate responsibility plan.

24 The Defendant must notify the clerk of court, the
25 probation office during his period of supervised release, and

1 the U.S. Attorney's Office of any change in name, residence,
2 mailing address, or any material change in financial
3 circumstances that affects ability to pay restitution and must
4 do that within 30 days of the change.

5 Based on the restitution and forfeiture obligations
6 and the Defendant's financial situation, I'm not imposing a fine
7 based on inability to pay.

8 Does either lawyer know of any legal reason why the
9 sentence I've described should not be imposed?

10 MR. FELTON: No, your Honor.

11 MR. SAPONE: No, your Honor.

12 THE COURT: Then the sentence I've described is the
13 sentence I impose. It's the sentence I find sufficient, but not
14 greater than necessary to serve the purposes of sentencing.

15 Mr. Randolph, you have the right to appeal your
16 conviction and sentence, except to the extent you've given up
17 that right through your guilty plea or your plea agreement. If
18 you think you have grounds to appeal and you're unable to pay
19 the costs of an appeal, you can apply for permission to appeal
20 without paying. Any notice of appeal must be filed within 14
21 days of the entry of the judgment of conviction.

22 I know you may not be happy with how this turned out.
23 From where I sit, I feel like I have shown you some grace and
24 mercy. I could have given you eight years, and I don't think
25 anybody would have objected based on -- I mean any higher

1 court -- based on what you did while you were on release in this
2 case. I really hope you meant everything you said today and
3 there is a way to turn this into a positive as you say you want
4 to.

5 THE DEFENDANT: I, I --

6 THE COURT: I would encourage you to -- you know, you
7 spoke a lot about how you want to help other people and help
8 them get their lives together and all that, and that's
9 wonderful, but it's okay to focus on you. You got a lot of
10 stuff you're carrying around that maybe you haven't dealt with
11 yet, and I would -- this is free advice so it's worth what
12 you're paying for it, but when you get out, I would focus on
13 what you need to do to keep your promise that you won't ever be
14 in court again, and that's not going to be easy, so don't feel
15 like you have to take on the world and that you have to, you
16 know, be a saviour to the community. It will be a very good
17 thing if you can do what you promised your wife and son just
18 now.

19 And if you get to that point, you know, where you are
20 a changed man and then you want to go out and help other people,
21 like I said, that's wonderful, but don't feel like you gotta do
22 that at the beginning. It's fine to focus on yourself and
23 getting your life back together.

24 THE DEFENDANT: Yes, your Honor. Thank you, Your
25 Honor, I appreciate that, but I, I -- I'm going to keep that

1 promise to my family, and I am going to try to touch other
2 people's lives and try to help other people or whatever. I'm
3 going to make this negative as much of a positive as I can, and
4 I'm going to move forward though that and I'm going to work
5 every day to do that.

6 THE COURT: All right.

7 THE DEFENDANT: I meant everything that I said.

8 THE COURT: Good for you. And I get totally -- I
9 totally get what you mean about you and I never seeing each
10 other again as being a positive. I hope, I hope for the same.

11 THE DEFENDANT: No, I, I said you're gonna see me
12 again, but I said you're gonna see me in a positive light, not a
13 negative light.

14 THE COURT: Oh.

15 THE DEFENDANT: Not somebody coming in your courtroom
16 again or whatever, and when you look back over your time on the
17 bench, hopefully you'll be able to say "I positively affected
18 that person's life right there and that's an example of why I do
19 what I do" or whatever.

20 THE COURT: I hope you're right, and part of that
21 means you and I are not in a courtroom together anymore --

22 THE DEFENDANT: Oh, of course, no, ma'am.

23 THE COURT: -- and you're not in anybody else's
24 courtroom.

25 And you've got, you've got the tools. You're

1 obviously a bright man, you've run a business, you're...just
2 from the way you spoke today I know you've got some good brains
3 in there, and you have had some stuff that happened to you when
4 you were a kid and it's a hundred percent not your fault, but
5 it's messed you up in some ways and made you...you know, like I
6 said, do some things that I cannot understand.

7 So I think that there is actually -- notwithstanding
8 all of the bad behavior recently, you know, there is a decent
9 chance that you can straighten things out, and I wish you the
10 best of luck.

11 Are there any open counts?

12 MR. FELTON: Yes, your Honor, the Government moves to
13 dismiss Counts I, III, V, and IX in the indictment as to Mr.
14 Randolph.

15 THE COURT: I, III, V, and IX are dismissed as to Mr.
16 Randolph.

17 I'm going to sign the preliminary order of forfeiture,
18 as well as the restitution order, and I think that completes our
19 business.

20 Do you want, Mr. Sapone, a geographic recommendation?

21 MR. SAPONE: Yes, your Honor.

22 So your Honor knows that I am Mr. Randolph's voice,
23 although he actually said a few things directly to you -- by the
24 way, thank you for your kind words to him, your Honor, you
25 didn't have to say those things and I appreciate it -- he is

1 asking me to ask you if he could self-surrender to a BOP
2 facility in the area of Atlanta, Georgia, so that he could get
3 the support of his family. They'd like to visit him, obviously,
4 while he's in the BOP.

5 And I explained to him that, you know, that is an
6 uphill battle, but he asked me to ask you if that's possible.

7 THE COURT: Well, I will recommend a facility in the
8 Atlanta area, but there's not going to be a self-surrender based
9 on the track record while on pre-trial release.

10 All right, thank you, everyone. Stay well.

11 MR. FELTON: Thank you, Your Honor.

12 MR. SAPONE: Thank you, Your Honor.

13 Certified to be a true and accurate transcript.

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16 TABITHA DENTE, SR. COURT REPORTER

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